

DATE: 6/17/2008 CASE NUMBER: 08-15863M-001-SD

CLOSED

USA vs. Arnoldo Lopez-Ybarra

U.S. MAGISTRATE JUDGE: JAY R. IRWIN #: 70BK

A.U.S. Attorney _____ INTERPRETER Ricardo Gonzalez
LANGUAGE Spanish

Attorney for Defendant Matthew Johnson (AFPD)

MATERIAL WITNESS(es): _____

MATERIAL WITNESS(es) state true name(s) to be: _____

Attorney for Material Witness(es): _____

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA 6/10/08 ☐ Initial Appearance ☐ Appointment of counsel hearing held
☐ Financial Afdvt taken ☐ Defendant Sworn ☐ Financial Afdvt sealed
☐ Rule 5(c)(3) ☐ Defendant states true name to be _____. Further proceedings ORDERED
in Defendant's true name.

DETENTION HEARING:

☐ Held ☐ Con't ☐ Submitted ☐ Reset
Set for:
Before:
☐ Defendant ordered temporarily detained in the
custody of the United States Marshal
☐ Defendant ordered released _____
☐ Defendant continued detained pending trial
☐ Flight risk ☐ Danger

IDENTITY HEARING:

☐ Held ☐ Con't ☐ Submitted ☐ Reset
☐ Waived
Set for:
Before:
☐ Warrant of removal issued.

PRELIMINARY HEARING:

☐ Held ☐ Con't ☐ Submitted ☐ Reset
☐ Waived
Set for:
Before:
☐ Probable cause found ☐ Dismissed
☐ Held to answer before District Court

STATUS HEARING: re: Plea and Sentence

☒ Held ☐ Con't ☐ Reset
Set for:
Before:

Other: Senior Patrol Agent, Chris Cantu, on behalf of the Government orally moves to dismiss the Complaint.
Defense counsel has no objection. The Court ORDERS this case dismissed without prejudice. Case closed.

Recorded by Courtsmart
BY: Jocelyn M. Arviso
Deputy Clerk

DATE: 6/11/2008 CASE NUMBER: 08-15863-001M-SD

PLEA/SENTENCING MINUTES

USA vs. Arnoldo Lopez-Ybarra

U.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BK

U.S. Attorney _____ INTERPRETER REQ'D Ricardo Gonzalez
LANGUAGE: Spanish

Attorney for Defendant Matthew Johnson (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA 6/10/08 ☒ Complaint Filed ☒ Appointment of counsel hearing held
☐ Financial Afdvt taken ☒ No Financial Afdvt taken ☐ Financial Afdvt sealed
☒ Initial Appearance

DETENTION HEARING: ☒ Held ☐ Cont'd ☐ Reset ☐ UA
Set for: before:

☒ Defendant ordered temporarily detained in the custody of the United States Marshal
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at \$ _____
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

PLEA HEARING: ☐ Held ☒ Cont'd ☐ Reset
Set for: 6/17/08 AT 11:00 A.M. before: MAGISTRATE JUDGE IRWIN

☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd
☐ Consent of Defendant ☐ Information filed _____ ☐ Complaint filed _____
☐ Defendant sworn and examined by the Court ☐ Plea of Guilty ☐ Not Guilty ☐ Entered to Counts _____
☐ Defendant states true name to be _____. Further proceedings ORDERED in defendant's true name.
☐ Plea of Guilty entered as to Ct(s) _____ of the ☐ Information ☐ Indictment ☐ Complaint
☐ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed
☐ Court does not accept defendant's plea of guilty because _____
☐ PSI ORDERED ☐ EXPEDITED ☐ PSI waived ☐ Time waived for passage of sentence
☐ Continued for sentence to ____ before _____
☐ To be dismissed upon entry of the judgment, Ct(s) ____
☐ ORDER vacate trial date/motion hearing/mtns moot
☐ ORDER defendant remain released pending sentence ☒ remanded to USM

SENTENCING:

☐ Defendant committed to Bureau of Prisons for a period of ____ ☐ Probation/Supervised Release for ____
☐ Special Assessment \$ _____ ☐ Fine \$ _____ ☐ Restitution \$ _____

Other: Defense counsel requests a continuance. The Government has no objection. IT IS ORDERED granting said request.

RECORDED: CS

BY: Jocelyn M. Arviso, Deputy Clerk

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

6/10

UNITED STATES OF AMERICA

V.

Arnoldo LOPEZ-Ybarra

Citizen of Mexico

YOB: 1971

028720931

Illegal Alien

CRIMINAL COMPLAINT

CASE NUMBER: 08-15863M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

COUNT I

That on or about February 28, 2008, Defendant Arnoldo LOPEZ-Ybarra was arrested and removed from the United States to Mexico through the port of San Luis, Arizona, in pursuance of law, and thereafter on or about June 10, 2008, Defendant was found in the United States near Yuma, Arizona within the District of Arizona, the Secretary of the Department of Homeland Security not theretofore having consented to any reapplication by the Defendant for admission into the United States and after the Defendant had willfully and unlawfully returned and remained in the United States; in violation of Title 8, United States Code, Section 1326 (Felony).

COUNT II

That on or about March 1, 2008, within the Southern District of California, Defendant Arnoldo LOPEZ-Ybarra, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers and elude examination or inspection by Immigration Officers; in violation of Title 8, United States Code, Section 1325, in that the Defendant was previously convicted for violation of Title 8, United States Code, Section 1325, on May 10, 1993 (Felony).

COUNT III

That on or about March 1, 2008, within the Southern District of California, Defendant Arnoldo LOPEZ-Ybarra, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers; in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Signature of Complainant

Suzanne Clark

Lead Patrol Agent

Sworn to before me and subscribed in my presence,

June 11, 2008

Date

at

City and State

Yuma, Arizona

Jay R. Irwin, U.S. Magistrate

Name & Title of Judicial Officer

Signature of Judicial Officer

STATEMENT OF FACTUAL BASIS

Defendant: Arnolito LOPEZ-Ybarra

Dependents: None

IMMIGRATION HISTORY: The Defendant was last removed through San Luis, Arizona on February 28, 2008.

CRIMINAL HISTORY:

<u>DATE/LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
05/10/1993 Yuma, AZ Border Patrol	8 USC 1325 Illegal Entry	60 Days Jail
12/03/1991 Yuma, AZ Border Patrol	8 USC 1325 Illegal Entry	45 Days Jail
12/11/1991 Yuma, AZ Police Dept.	Burglary Theft	No Complaint Filed No Complaint Filed
01/22/1992 Department of Public Safety Yuma, AZ	Possession of Marijuana Possession of Paraphernalia	Unknown Unknown
06/17/1994 Yuma, AZ Border Patrol	False Claim to US Citizenship	Deported 09/28/1994
05/08/1998 Yuma, AZ Police Dept.	Assault (M) Disorderly Conduct (M)	-Guilty: Jail 30 Days Probation Yuma 1 Year Suspended Sentence

Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Yuma, Arizona.

The Defendant was questioned as to his citizenship and immigration status. From that questioning agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near San Ysidro, California on March 1, 2008.

Charges: 8 USC§1326
8 USC§1325
8 USC§1325

(Felony)

(Felony)

(Misdemeanor)

Signature of Complainant

Sworn to before me and subscribed in my presence,

June 11, 2008

Date

Signature of Judicial Officer